

CHAPTER 32

HISTORIC PRESERVATION ORDINANCE

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32.01 **DECLARATION OF POLICY**

The City Council declares as a matter of public policy that the protection, enhancement, preservation, and use of improvements of special character or special historic interest or value is a public necessity and is required in the interest of the public health, safety and general welfare. The purposes of this chapter are to:

- (1) Protect, enhance and perpetuate historic landmarks, landmark sites and historic districts which represent or reflect distinctive and important elements of the City's and State's architectural, archeological, cultural, social economic, ethnic and political history and to develop appropriate settings for such places.
- (2) Safeguard the City's historic and cultural heritage as embodied in such historic landmarks, landmark sites and historic districts by appropriate regulations.
- (3) Stabilize and improve property values.
- (4) Foster civic pride in the beauty and accomplishments of the past.
- (5) Protect and enhance the City's attractions to residents, tourists and visitors and provide support and stimulus to business and industry.
- (6) Strengthen the economy of the City.
- (7) Promote the use of historic landmarks, landmark sites and historic districts for the culture, education and general welfare of the people of the City and visitors to the City.

32.02 **DEFINITIONS**

In this chapter, unless context clearly requires otherwise:

Alteration. Any act or process that changes one or more of the exterior architectural features of a structure including, but not limited to, the erection, construction, reconstruction or removal of any structure.

Building Inspector. (Am. #2410) The Director of Housing Services of the City.

Certificate of Appropriateness. (Am. #2660) A certificate issued by the Landmarks Commission and signed by the chairperson or secretary indicating that new construction, alterations or demolition to any landmark, landmark site or structure located within a historic district is in accordance with the standards and requirements of §32.06 of this chapter. Such a certificate must first be obtained prior to the issuance of a building permit for the above stated purposes.

Commission. (Am. #2660) The Landmarks Commission created under this chapter.

Historic Building. Any building or object listed on, or any building or object within and contributing to an historic district listed on, the National Register of Historic Places in Wisconsin, the State Register of Historic Places or a list of historic landmarks maintained by the City of Beloit. (Am. #3029)

Historic District. An area designated by the City Council on recommendation of the Commission that contains 2 or more landmarks or landmark sites, as well as those abutting improvement parcels which the Commission determines should fall under the provisions of this chapter, to assure that their appearance and development is harmonious with such landmarks or landmark sites. (Am. #2660)

Improvement. Any building, structure, place work of art, or other object constituting a physical betterment of real property or any part of such betterment.

Improvement Parcel. The unit of property which includes a physical betterment constituting an improvement and the land embracing the site and is treated as a single entity for the purpose of levying real estate taxes provided, however, that the term “improvement parcel” shall also include any unimproved area of land which is treated as a single entity for such tax purposes.

Landmark Site. Any parcel of land of historic significance due to a substantial value in tracing human history or upon which a historic event has occurred and which has been designated as a landmark site under this section, or an improvement parcel or part thereof on which is situated a landmark and any abutting improvement parcel or part thereof used as and constituting part of the premises on which the landmark is situated.

Like Materials. The use of materials that match the color, style and design of the existing materials. (Am. #2862)

Planning Director. The Director of Planning for the City of Beloit. (Am. #2862)

32.03 **LANDMARKS COMMISSION** (Rep. & recr. #2616; Am. #2660)

- (1) **CREATION.** The Landmarks Commission authorized by §§62.23(7)(em), Wis. Stats., is hereby created and hereinafter referred to as the “Landmarks Commission”.
- (2) **MEMBERSHIP.** The Landmarks Commission shall consist of 9 or 10 members as follows:
 - (a) **Ex Officio Members.**
 - City Council President
 - One City Council representative, who may also be the City Council President
 - One representative from the Bluff Street National Register Historic District or the Merrill Street National Register Historic District

- One representative from the Near East Side National Register Historic District
- (b) Citizen Members. Five citizen members. (Am. #3029)
- (c) Rights and Privileges. All members of the Landmarks Commission shall have the same rights and privileges, except that the City Council President shall not have the right to vote. (Am. #3029)

(3) APPOINTMENT

- (a) City Councilor. (Am. #2660) The City Council representative shall be appointed by the City Council President, subject to confirmation by the City Council, at the City Council's organizational meeting in April of each year. The City Council President may be appointed as the City Council representative.
- (b) Citizen Members. The five citizen members shall be nominated by the Appointment Review Committee and appointed by the City Council President, subject to confirmation by the City Council. The membership should reflect the diverse nature of the City's population. (Am. #3029)
- (c) Other Members. The representative from the Bluff Street National Register Historic Districts, the Merrill Street National Register Historic District, and the Near East Side National Historic shall be nominated by the governing bodies of their respective organizations and appointed by the City Council President, subject to confirmation by the City Council.

(4) TERM OF OFFICE

- (a) Length of Term. (Am. #2660) The City Council representative shall be appointed for a one-year term commencing on the date of appointment and ending on the date that successors are appointed. Except as provided in subparagraph (b), all other members shall be appointed for 3-year terms beginning November 1 of the first year and ending October 31 of the third year.
- (b) Staggering of Terms for Initial Members. (Am. #2660) Three of the initial citizen members shall serve a one-year term. Three of the initial citizen members shall serve a 2-year term. The other initial members shall serve a 3-year term.
- (c) Subsequent Terms. No citizen member or representative of a historic district may be appointed for more than 2 successive, full terms. A citizen member or representative of an historic district, who serves 2 full, successive terms shall be eligible for reappointment one year after the member completes his/her last term.

- (d) Membership on other Committees. No member, except the City Council representative, may serve on any other City board, committee, or commission while that member is serving on the Landmarks Commission.
- (e) Incumbents. Incumbents may continue to serve beyond the end of their terms until their successors have been appointed and seated.
- (f) Vacancies. Vacancies shall be filled for the balance of the term. A member appointed to fill a vacancy shall be appointed in the same manner as that member's Landmarks Commission shall be residents of the City.

(5) QUALIFICATIONS

- (a) Residency. (AM. #2660) All members of the Landmarks Commission shall be residents of the City.
- (b) City Employee's Spouse. One Commission member may be a City employee's spouse or significant other, as long as the City employee's job is not affected, directly or indirectly, by the work of the Commission.
- (c) Family Members.
 - 1. No more than one member of any one family may serve on the commission at the same time.
 - 2. No person shall be appointed to the commission if any member of that person's family is a municipal employee whose job is affected, directly or indirectly, by the work of the commission.
 - 3. No commission member may continue to serve on the commission after any member of his/her family becomes a City employee whose job is affected, directly or indirectly, by the work of the commission.
 - 4. In this paragraph, "family" means: mother, father, spouse, brother, sister, and natural or adopted son or daughter.
- (d) Former City Employees. No former City employee may serve on the commission if that former employee's employment was terminated for cause. No other former City employee may serve on the commission during the one-year period immediately following termination of the employee's employment with the City.
- (e) Knowledge and Interest. All members shall be persons knowledgeable in or having a demonstrated interest in the field of historic preservation. When selecting members, preference shall be given to those candidates who have the following professional qualifications: (Am. #3029)

1. An architect or a person knowledgeable in the field of construction.
2. A licensed real estate broker or agent.
3. An historian or archeologist.
4. Three members shall be citizens at large.

(6) PURPOSE AND DUTIES

- (a) Purpose. The commission shall exercise the powers and perform the duties set forth in §32.01.
- (b) Powers and Duties. The commission shall exercise the powers and perform the duties set forth in §32.05.

(7) MEETINGS

- (a) Regular Meetings. Regular meetings of the commission shall be held at the Forum in Beloit City Hall, 100 State Street, Beloit, Wisconsin, or such other location designated in the notice of the meeting, at 7:00 p.m. on the third Tuesday of each month. (Am. #2862)
- (b) Special Meetings. Special meetings shall be held at the Forum in Beloit City Hall, 100 State Street, Beloit, Wisconsin, or such other location designated in the notice of the meeting. Special meetings may be called by the commission chair or by written request of 2 voting members.
- (c) Notice of Meetings. Public notice of all meetings of the commission shall be given in accordance with the Open Meeting Law of the State of Wisconsin, §§19.81 to 19.97, Wis. Stats.
- (d) Agendas. A copy of each meeting agenda shall be sent to the City Clerk and to the City Manager's office by noon on the Wednesday preceding the meeting. This rule does not apply to agendas for special meetings called after noon on Wednesday. The agendas for special meetings called after noon on Wednesday shall be delivered to the City Clerk and the City Manager's office at least 24 hours before the meeting.
- (e) Meals. No meals shall be provided at City expense for any meeting expected to last less than 4 hours.

- (8) OFFICERS AND DUTIES. (Am. #2660) The Landmarks Commission shall select a chair, vice chair, and secretary annually at its first meeting after October 31. The commission shall submit the chair's name to the City Clerk immediately after the election. The chair shall preside over all meetings of the commission. The vice chair shall preside over the meetings in the chair's absence. In the absence of both the chair and vice chair of the commission, a president pro tem shall be chosen from those present and shall preside. The secretary shall record the minutes of each

meeting and shall transmit a written copy of the minutes and the records of the commission to the City Clerk. The City Clerk shall be custodian of the records of the commission.

- (9) **QUORUM.** (Am. #2660, 3029) Four voting members shall constitute a quorum sufficient to transact business. A fewer number may adjourn any meeting.
- (10) **VOTING.** A majority vote shall be necessary to adopt any motion, resolution, or other proposed action, except where a greater number is required by the rules of procedure or by-laws.
- (11) **RULES OF PROCEDURE AND BY-LAWS.** Commission meetings shall be conducted in accordance with Robert's Rules of Order, Newly Revised. The commission may adopt by-laws, as necessary, and shall submit them to the City Council for approval. If the commission adopts by-laws, the commission shall review them annually. A copy of the commission's approved by-laws shall be filed with the City Clerk.
- (12) **INSPECTION OF RECORDS.** The minutes of the meetings of the commission shall be available for public inspection, except the minutes of closed sessions authorized by §19.85, Wis. Stats. All other records of the commission shall be available for public inspection, unless exempt from disclosure under the Wisconsin Public Records Law, §§19.29 to 19.39, Wis. Stats.
- (13) **COMPENSATION.** All members shall serve without compensation, except that they shall be entitled to reimbursement of their actual and necessary expenses incurred in the discharge of their duties, excluding travel to and from commission meetings.
- (14) **ATTENDANCE.** Any member who is not planning to attend a meeting shall notify the commission chair of that fact at least 24 hours in advance of the meeting. Any member who misses more than 25% of the regular meetings during any year of his or her term shall be subject to removal from the commission. The Council President and the City Council representative are not required to attend Landmarks Commission meetings. (Am. #3029)
- (15) **REMOVAL.** The commission may remove any member for cause. Prior to such action, the commission shall prepare a written complaint setting forth the facts that constitute cause. The complaint shall be approved by a majority of the members of the commission. The member charged in the complaint either admit the charge and resign or request a public hearing on the complaint before the Appointment Review Committee. If the member so charged requests a hearing, the Appointment Review Committee shall conduct a public hearing to determine whether the allegations of the complaint are true. At the conclusion of the hearing, the Appointment Review Committee shall enter written findings of fact and furnish copies of those findings to the member charged and to the committee. If the Appointment Review Committee makes a determination adverse to the member charged, that member may appeal the decision to the City Council.

(16) SUBCOMMITTEES

- (a) Appointment. The commission chair may appoint standing or temporary subcommittees, subject to confirmation by the commission. Temporary committees shall dissolve no later than 6 months after their creation, unless their term is extended by an affirmative vote of the majority of the commission. Extensions may be granted in increments of 6 months or less.
- (b) Membership. Members of the subcommittees need not be members of the commission.
- (c) Notice of Meetings. Public notice of all subcommittee meetings shall be given in accordance with the Wisconsin Open Meeting Law, §§19.81 to 19.97, Wis. Stats.
- (d) Records. The subcommittee shall keep minutes of its meetings. The minutes of the meetings and other records of the subcommittee shall be open to public inspection, except as otherwise provided by the Wisconsin Public Records Law, §§19.29 to 19.39, Wis. Stats. Subcommittee minutes and records shall be filed with the parent committee.
- (e) Application. Subsections (4)(d) and (e), (5), (6), (7)(d) and (e), (8), (12), (13), (14) and (15) of this section apply to subcommittees.

32.04 **LANDMARK, LANDMARK SITE AND HISTORIC DISTRICT DESIGNATION QUALIFICATIONS**

A landmark or landmark site designation may be placed on any site, natural or improved, including any building, improvement or structure, or any area of particular historic, architectural or cultural significance to the City, such as historic structures or sites which:

- (1) Exemplify the cultural, political, economic or social history of the nation, State or community;
- (2) Are identified with historic personages or with important events in national, State or local history;
- (3) Embody the distinguishing characteristic of an architectural style, inherently valuable for a study of a period, style, method of construction of indigenous materials or craftsmanship; or
- (4) Are representative of the notable work of a master builder, craftsman, designer or architect whose works represented or influenced their age or the development of the City.

32.05 **COMMISSION POWERS AND DUTIES**

The Commission shall have the power to:

- (1) Designate landmarks and landmark sites and recommend historic districts within the City limits in accordance with the qualifications at §32.04 and procedures at § 32.09.

Once designated by the Commission such landmarks, landmark sites, and historic districts shall be subject to all the provisions of this chapter with the exception that historic designations must be approved by the City Council.

- (2) Regulate construction, reconstruction and alteration of any landmark, landmark site or improvement or improvement parcel in any historic district in the City in accordance with §32.06.
- (3) Regulate demolition of any landmark or any improvement in an historic district in accordance with §32.07 (Am. #2410)
- (4) Recognize by suitable marker any landmark, landmark sites or historic district in accordance with §32.08.
- (5) Amend or rescind the designation of a landmark or landmark site in accordance with §32.09 or historic district in accordance with §32.12.
- (6) Encourage property owners to make use of available tax credits to sites it has designated under the provisions of this section in order to encourage landmark owners to assist in carrying out the intent of this chapter.
- (7) Work closely with the State Historic Preservation Officer (SHPO) in order to include those eligible properties outside the existing National Register Historic District to be included on the National Register of Historic Places and to be included on the State Register of Historic Places.
- (8) Work for the continuing education of the citizens about the historic heritage of this City and the landmarks and landmark sites designated under the provisions of this section.
- (9) As it deems advisable, receive and solicit funds for the purpose of landmarks preservation in the City. Such funds shall be placed in a special City account for such purpose and to be disbursed by the City for the purposes and uses designated by the Commission. No expenditures shall be made except from contributions received by the Commission or appropriations authorized by the City Council.
- (10) Annually review this chapter and report any revisions or additions deemed logical or necessary to the City Council with a recommendation for formal adoption into

- this chapter. In addition, the Commission shall annually report its activities to the City Council at the second regularly scheduled meeting in February. (Am. #2410)
- (11) Prepare and make available appropriate preservation booklets and articles for public distribution. Such material shall contain the City ordinances and codes applicable to preservation, instructions on how to work with these codes and ordinances, a list of City officials and members of the Landmarks Commission and other pertinent data, forms and instructions. (Am. #2660)
- (12) Prepare and adopt standards and policies for Historic Rehabilitation in accordance with the Secretary of Interior's Standards. These standards are to apply within historic districts and to individually listed landmarks or landmark sites. (Cr. #2410)

32.06 **REGULATION OF CONSTRUCTION, RECONSTRUCTION AND EXTERIOR ALTERATION**

- (1) **AUTHORITY TO ISSUE CERTIFICATE OF APPROPRIATENESS.** The Landmarks Commission and, in certain limited cases described below, the Planning Director may issue a Certificate of Appropriateness in the following cases:
- (a) Roof repair/replacement. (Am. #3029)
 - (b) Gutter repair/replacement with like materials and in like styles.
 - (c) Private sidewalk and driveway repair/replacement with like materials in the same dimensions, placement and orientation.
 - (d) Stair and stoop repair/replacement with like materials and in the same design.
 - (e) Installation of historic plaques (residential properties only).
 - (f) Porch columns, railing and skirting repair/replacement with like materials and in the same design.
 - (g) Chimney repair and tuckpointing according to the Secretary of the Interior Standards and in like color and design.
 - (h) Installation of fences. (Am. #3029)
 - (i) Window repair and replacement (provided no change is made in the rough opening) (Am. #3029)
 - (j) Exterior siding. (Am. #3029)
 - (k) Storm window/storm door repair or replacement (Am. #3029)
 - (l) Soffitt, fascia or trimwork repair and replacement (Am. #3029)

- (2) **CERTIFICATE OF APPROPRIATENESS REQUIRED.** (Am. #2862) Any alteration of designated landmarks, landmark sites, or structures within a historic district in the City shall first require a certificate of appropriateness.
- (3) **APPLICATION FOR PERMIT.** (Am. #2410) A copy of any application for a permit from the Building Inspector involving a landmark, landmark site or improvement within an historic district shall be filed with the Commission. No permit shall be issued until a certificate of appropriateness has been granted.
- (4) **CERTIFICATE GRANTED BY COMMISSION OR PLANNING DIRECTOR.** (Am. #2362; #2410; #2660, #2862) No owner or person in charge of a landmark, landmark site, or structure within any historic district in the City shall reconstruct or alter all or any part of the exterior of such property, construct any improvement upon such designated property, or any such work to be performed upon such property unless a certificate of appropriateness has been granted. Unless such certificate has been granted, the Building Inspector shall not issue a permit for any such work. When neither a building permit nor a demolition permit is required, if a proposed development, alteration or demolition constitutes a material change in the exterior appearance of a landmark or of a landmark site, then a certificate of appropriateness shall be required. Each of the following shall constitute a violation of this chapter:
- (a) Failure to obtain a certificate of appropriateness prior to effecting a material change in the exterior appearance of the landmark or the landmark site.
 - (b) Failure to comply with the terms and conditions of the certificate of appropriateness.
- (5) **DRAWINGS AND SPECIFICATIONS.** In reviewing applications for alterations or modifications, the Commission or Planning Director shall require complete and clear drawings and specification of the work to be accomplished to be furnished by the applicant and use the following criteria upon which to base its decision of granting a certificate of appropriateness. For simple projects, a brief description of the proposal or photographs or sketches may be sufficient. A simple project means a project eligible for review by the Planning Director. For more complicated projects, full architectural drawings or drawings acceptable to the Commission should be attached to the application to permit the Commission to visualize the effect of the proposed alteration of the applicants building. The applicant should provide enough information to enable the Commission or Planning Director to understand the relationship of the proposed work to adjacent buildings. (Am. #2862)
- (a) General Review Criteria.
 - 1. Every reasonable effort shall be made to provide a compatible use for a property which requires alteration of the building, structure or site and its environment or to use a property for its originally intended purpose.
 - 2. The distinguishing original qualities or character of a building, structure or site and its environment shall not be destroyed. The removal or alteration

of any historic material or distinctive architectural features should be avoided when possible.

3. All buildings, structures and sites shall be recognized as products of their own time. Alterations that have no historical basis and that seek to create an earlier or later appearance shall be discouraged. (Am. #2410)
4. Changes that may have taken place in the course of time are evidence of the history and development of a building, structure or site and its environment. These changes may have acquired significance in their own right and this significance shall be recognized and respected.
5. Distinctive stylistic features or examples of skilled craftsmanship which characterizes a building, structure or site shall be treated with sensitivity.
6. Deteriorated architectural features shall be repaired rather than replaced, wherever possible. If replacement is necessary, the new material should match the material being replaced in composition, design color, texture and other visual qualities. Repair or replacement of missing architectural features should be based on accurate duplication of features, substantiated by historic, physical or pictorial evidence, rather than as conjectural designs or availability of different architectural elements from other buildings or structures. The priority of repairs is as follows:
 - a. Repairs in materials that exactly duplicate the original in composition, texture and appearance must be considered first.
 - b. Repairs in new materials that duplicate the original in texture and appearance will be considered second.
 - c. Repairs in materials that do not duplicate the original in appearance will be permitted on an individual basis if the repairs are compatible with the character and materials of the existing building to be considered as a third option. If repairs that duplicate the original in appearance are prohibitively expensive, proof of expenses must be provided. (Am. #2410)
7. The surface cleaning of structures shall be undertaken with the gentlest means possible. Sandblasting and other cleaning methods that will damage the historic building materials shall not be undertaken.
8. Every possible effort shall be made to protect and preserve archeological resources affected by or adjacent to any project.
9. Contemporary design for alterations and additions to existing properties shall not be discouraged when they do not destroy or cover over significant historical, architectural or cultural material and such design is compatible with the size, scale, color, material, and character of the property, neighborhood or environment. (Am. 2410)

10. Whenever possible, new additions or alterations to buildings shall be done in such a manner that if such additions or alterations were to be removed in the future, the essential form and integrity of the building would be unimpaired. (Am. #2410)

(b) Specific Review Criteria.

1. *Height.* The height of any proposed alteration or construction should be compatible with the style and character of the landmark and with surrounding structures in the historic district.
2. *Proportions of Windows and Doors.* The proportions and relationships between doors and windows should be compatible with the architectural style and character of the landmark, or in the case of new construction, with surrounding structures within the historic district. (Am. #2410)
3. *Relationship of Building Masses and Spaces.* The relationship of a structure within the historic district to the open space between it and adjoining structures should be compatible.
4. *Roof shape.* The design of the roof should first be compatible with the architectural style and character of the landmark itself and then, if necessary, with other surrounding structures in the historic district. (Am. #2410)
5. *Landscaping.* (Am. #2410; #2611)
 - a. *Compatibility.* Landscaping should first be compatible with the architectural character and appearance of the landmark itself and then, if necessary, with other surrounding structures and landscapes in the historic district.
 - b. *Classification.* Landscaping shall be classified as *hardscape* or *softscape*. Hardscape is any item which is permanently fixed, installed, mounted or erected on historic property and which enhances the appearance or value of the property. Hardscape includes, but is not limited to, driveways, fences and gazebos. Softscape is any removable display, structure and any item which grows through the natural photosynthetic process. Softscape includes, but is not limited to, plants, grasses, bushes, shrubs, seasonal plantings and trees less than 12" in diameter, playground equipment, flagpoles and lawn statuary. (Am. #2862)
 - c. *Hardscape Review*

- 1) Commission Review. The Commission shall review and approve the installation and removal of hardscape in front and corner side yards.
 - 2) Planning Director. The Planning Director shall review and approve installation or removal of certain hardscape materials (private driveways and sidewalks) in rear or side yards. (Am. #2862)
 - 3) Appeal. Any property owner aggrieved by a hardscape decision of the Planning Director may appeal the decision to the Commission. (Am. #2862)
 - 4) Softscape Review. Neither the Commission nor Planning Director shall review the installation or removal of softscape. (Am. #2862)
 - 5) *Scale*. The scale of the structure after alteration, construction or partial demolition should first be compatible with its architectural style and character and then, if necessary, with the surrounding structures in the historic district. (Am. #2410)
 - 6) *Directional Expression*. Facades in historic districts should blend with other structures with regard to directional expression. Structures in the historic district should be compatible with dominant horizontal or vertical expression of surrounding structures. The directional expressions of a landmark after alteration, construction or partial demolition should be compatible with the original architectural style or character of the landmark and then, if necessary, with other structures in the historic district. (Am. #2410)
 - 7) *Architectural Details*. Architectural details, including materials, colors and textures, should be treated so as to make a landmark compatible with the original architectural style or character of the landmark in the historic district. (Am. #2410)
- (5) CONDITIONS. The Commission or Planning Director shall grant a certificate of appropriateness if it determines (Am. #2862):
- (a) In the case of a landmark or landmark site, the proposed work would not detrimentally change, destroy or adversely affect any exterior architectural feature of the improvement upon which the work is to be done.
 - (b) In the case of the construction of a new improvement upon a landmark site, the exterior of such improvement would not adversely affect or would harmonize with the external appearance of other improvements on such site.
 - (c) In the case of any property located in an historic district, the proposed construction, reconstruction or exterior alteration conforms to the objectives

and design criteria of the historic preservation plan for the City and district.
(Am. #2410)

(7) **ISSUANCE AND APPEAL**

- (a) The Commission or Planning Director shall make the decision on granting of the certificate within 30 days of the filing of the application. (Am. #2410, #2862)
- (b) The Commission or Planning Director shall at the request of the owner cooperate and work with the owner or contractor in an attempt to obtain a certificate of appropriateness within the guidelines of this chapter. (Am #2410 #2862)
- (c) If the Commission or Planning Director denies the application for a certificate of appropriateness, the owner may appeal such decision to the City Council which may grant the certificate by majority vote after a public hearing held after publication of a Class 2 notice and prior notice to the owner and Commission mailed 7 days prior to the hearing. (Am. #2410, #2862)
- (d) Upon the issuance of the certificate of appropriateness, the building permit shall then be issued by the Building Inspector.

32.07 REGULATION OF DEMOLITION

Unless an historic building has been condemned pursuant to §66.0413(3), Wis. Stats., the Building Inspector may not grant a permit to demolish all or part of any historic building except as follows: (Am. #3029)

(1) **PERMIT**

- (a) An owner requesting a permit to demolish an historic building shall file the application with the Building Inspector. The Building Inspector shall file a copy of the application with the Commission. (Am. #3029)
- (b) The Commission may issue a certificate of appropriateness to authorize the Building Inspector to grant a permit to demolish all or part of an historic building. (Am. #3029)
- (c) The Commission may refuse to authorize a permit for a period of up to 10 months from the filing of the application, during which time the Commission and the applicant shall undertake serious and continuing discussions for the purpose of finding a method to save such property.
- (d) During this time, the owner shall take whatever steps deemed necessary by the Commission to prevent further deterioration of the historic building.

- (e) During that period, the owner and Commission shall cooperate in attempting to avoid demolition of the historic building. (Am. #3029)
 - (f) At the end of this 10-month period, the Building Inspector may issue a permit to demolish the historic building without the approval of the Commission, if (Am. #3029);
 - 1. The Commission and the owner of the historic building were unable to agree on a mutually acceptable method of saving the subject property; and
 - 2. No one has proposed a method of saving the historic building which as a reasonable prospect of success; and
 - 3. There are no funds available from any governmental unit or non-profit organization for preservation of the historic building.
 - (g) If at the end of the 10-month period, the Commission determines that there is a mutually agreeable method of saving the historic building; that there is a project underway that has a reasonable prospect of success; or that there are funds available to preserve the historic building, no demolition permit may be issued without the approval of the Commission. If, after two additional month, there is no mutually agreed method of saving the property; no proposed method of saving the historic building which has a reasonable prospect of success; and no funds available to preserve it, the Building Inspector may issue a permit to demolish the historic building without the approval of the Commission (Am. #3029).
- (2) STANDARDS. In determining whether to issue a certificate of appropriateness for any demolition, the Commission shall consider and may give decisive weight to any or all of the following:
- (a) Whether the historic building is of such architectural or historic significance that this demolition would be detrimental to the public interest and contrary to the general welfare of the people of the City and the State (Am. #3029).
 - (b) Whether an historic building which has not been designated as an historic landmark, contributes to the distinctive architectural or historic character of the historic district as a whole and, therefore, should be preserved for the benefit of the people of the City and the State (Am. #3029).
 - (c) Whether demolition of the historic building would be contrary to the purpose and intent of this chapter as set forth in s32.01 and to the objective of the historic preservation plan for the applicable district as adopted by the City Council (Am. #3029).
 - (d) Whether the historic building is of such old and unusual or uncommon design, texture and/or material that it could not be reproduced or be reproduced only with great difficulty and/or expense (Am. #3029).

- (e) Whether retention of the historic building would promote the general welfare of the people of the City and the State by encouraging study of American history, architecture and design or by developing an understanding of American culture and heritage (Am.#3029).
 - (f) Whether any hardship or difficulty claimed by the owner is self-created or the result of the owner's failure to maintain the property in good repair (Am.#2029).
 - (g) Whether any new structure proposed to be constructed or any change in use proposed to be made is compatible with nearby historic buildings or the historic district in which the subject property is located (Am. #3029).
- (3) **APPEAL.** If a property owner is denied a certificate of appropriateness authorizing a permit to demolish all or part of an historic building, and the property owner claims that the denial constitutes a denial of all use of the property, the property owner may appeal such decision to the City Council within thirty (30) days of the Commission's decision. The City may, after a public hearing and by a majority vote of all of its member authorize the issuance of a demolition permit. Notice of the public hearing shall be given by publication of a class 2 notice and by written notice mailed to the applicant and the Commission at least seven (7) days prior to the public hearing. If the Council finds that the property owner is not denied all use of the property, then the 10-month moratorium period shall continue as provided in subsection. (1) (Am. #3029).

32.08 MARKING OF LANDMARKS AND LANDMARK SITES

At such time as a landmark or landmark site has been properly designated in accordance with this chapter, the Commission may cause to be prepared and erected on such property at City expense a suitable plaque declaring that such property is a landmark or landmark site. Such plaque shall be so placed as to be easily visible to passing pedestrians. In the case of a landmark, the plaque shall state the accepted name of the landmark, the date of its construction and other information deemed proper by the Commission. In the case of a landmark site which is not the site of a landmark building, such plaque shall state the common name of the site and such other information deemed appropriate by the Commission.

32.09 PROCEDURE FOR DESIGNATION OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS (Am. #2410)

- (1) The Commission may, after notice and public hearing, designate landmarks, landmark sites and recommend historic districts or rescind such designation based upon application of the qualifications and criteria in §§32.04, 32.06 (4) and 32.12. At least 30 days prior to such hearing, the Commission shall notify the owners of record as listed in the office of the City Assessor, who are owners of property in whole or in part situated within a minimum of 200' of the boundaries of the property affected. These owners shall have the right to confer with the Commission prior to final action by the Commission on the designation. Notice of such hearing shall also be published as a Class 1 notice under the Wisconsin Statutes. The

Commission shall also notify the Director of Public Works, Community Development Department, Fire and Police Departments and Building Inspection Division. Each such department shall respond on the proposed designation or rescission.

- (2) The Commission shall then conduct such public hearing and, in addition to the notified persons, may hear expert witnesses and shall have the power to subpoena such witnesses and records as it deems necessary. The Commission may conduct an independent investigation into the proposed designation or rescission. Within 10 days after the close of the public hearing, the Commission may designate the property as either a landmark, landmark site or recommend its inclusion in an historic district or rescind the designation. After the designation, recommendation or rescission has been made, notification shall be sent to the property owner or owners and to the persons who appeared at the public hearing. Notification shall also be given to the City Clerk, Building Inspector, Planner and the City Assessor. The Commission shall cause the designation or rescission to be recorded at City expense in the Rock County Register of Deeds office or forward the recommendation to be submitted to the City Council as provided by §32.12 (5).

32.095 REVIEW OF LANDMARKS COMMISSION'S DETERMINATIONS

- (1) DETERMINATION REVIEWABLE. (Am. #2660) The following determinations are reviewable by the City Council under this section:
 - (a) The Landmarks Commission's designation of an historic district or landmark site or its refusal to designate property as an historic landmark or landmark site.
 - (b) The Landmarks Commission's rescission of the designation of an historic landmark or landmark site or its refusal to rescind the designation of an historic landmark or landmark site.
- (2) REQUEST FOR REVIEW.
 - (a) The owner of the property which is the subject of any determination reviewable under this section may request the City Council to review such determination. The request for review shall be in writing and shall be filed with the City Clerk within 20 days of the date the Commission mails the notice of determination to the owner.
 - (b) The request for review shall clearly identify the reason why the Commission's determination should be reversed or modified. Written arguments may be filed with the request for review.
- (3) REVIEW HEARING (Am. #2660)
 - (a) The City Council shall conduct the review hearing within 30 days after the request for review is filed. The Council shall decide the appeal within 10 days of the review hearing.

- (b) The review shall be limited to the issues identified in the request for review. The review decision shall be based solely upon the evidence produced at the Landmarks Commission's hearing and the arguments of the parties.
 - (c) The City Council shall issue a written decision affirms, reverses or modifies the Commission's determination and deliver a copy of its decision to the owner and the Landmarks Commission. The Council shall state the reason for its decision. The decision shall advise the owner of the right to appeal the decision to Rock County Circuit Court and the time and manner in which appeal may be taken.
- (4) REVIEW BY CERTIORARI. The owner may seek review by writ of certiorari to Rock County Circuit Court within 30 days of the date of receipt of the City Council's decision. The court may affirm or reverse the Council's decision or remand the case to the City Council for further proceedings consistent with the court's decision.

32.10 RESCISSION OF DESIGNATION OF LANDMARKS AND LANDMARK SITES

Any party who is listed as the owner of record of a landmark or landmark site at the time of its designation, who can demonstrate to the Commission that by virtue of such designation, he is unable to find a buyer willing to preserve such landmark or landmark site, even though he has made reasonable attempts in good faith to find and attract such a buyer, may petition the Commission for a rescission of its designation. Following the filing of such petition with the secretary of the Commission:

- (1) The owner and the Commission shall work together in good faith to locate a buyer for the subject property who is willing to abide by its designation.
- (2) If, at the end of a period not exceeding 6 months from the date of such petition, no buyer can be found and if the owner still desires to obtain rescission, the Commission shall rescind its designation of the subject property.
- (3) In the event of such rescission, the Commission shall notify the City Clerk, Building Inspector, Planner and Assessor of same and cause the same to be recorded at its own expense in the office of the Rock County Register of Deeds.
- (4) Following any such rescission, the Commission may not redesignate the subject property a landmark or landmark site for a period of not less than 5 years following the date of rescission unless the owner consents to the redesignation.

32.11 VOLUNTARY RESTRICTIVE COVENANTS

The owner of any landmark or landmark site may at any time following such designation of the property, enter into a restrictive covenant on the subject property after negotiation with the Commission. The Commission may assist the owner in preparing such covenant in the interest of preserving the landmark or landmark site and the owner shall

record such covenant in the Rock County Register of Deeds' office and shall notify the City Assessor of such covenant and its conditions.

32.12 **HISTORIC DISTRICT; SELECTION; PLAN**

- (1) **SELECTION.** For preservation purposes, the Commission shall elect geographically defined areas within the City to be designated as historic districts and shall with the assistance of the City Planning Department prepare an historic preservation plan in ordinance form for each area. A historic district may be designated for any geographic area of particular historic architectural or cultural significance to the City which:
 - (a) Exemplifies or reflects the broad cultural, political, economic or social history of the nation, State or community;
 - (b) Is identified with historic personages or with important events in national, State or local history;
 - (c) Embodies the distinguishing characteristics of architectural type specimens inherently valuable for the study of a period or periods styles, methods of construction, indigenous materials or craftsmanship; or
 - (d) Is representative of the notable works of master builders, designers or architects who influenced their age.
- (2) **ANALYSIS.** Each historic preservation plan prepared for or by the Commission shall include a cultural and architectural analysis supporting the historic significance of the area, the specific guidelines for development and a statement of preservation objectives.
- (3) **PLAN.** The guideline criteria at §32.06(4) will be considered in the development of an historic plan.
- (4) **INTENT.** The guideline criteria for construction of and alterations and additions to buildings and structures in historic districts are designed to provide an understandable set of standards to ensure that alterations to the exterior of existing building and the creation of new buildings will be done in a manner sensitive to the character of each historic district. It is not the intent of this chapter to discourage contemporary architectural expression that is visually compatible in massing and roof design with its environment and otherwise meets the standards in this chapter. It is furthermore not the intent of this chapter to encourage the rote emulation of existing building styles. (Am. #2410)
- (5) **HISTORIC DISTRICT PLAN REVIEW AND ADOPTION PROCEDURE**
 - (a) **Commission.** (Am. #2660) The Commission shall hold a joint public hearing with the Plan Commission when considering the plan for an historic district. Notice of the time, place and purpose of such hearing shall be given by

publication as a Class 2 notice under the Wisconsin Statutes in the official City paper. Notice of the time, place and purpose of the public hearing shall also be sent by the City Clerk to owners of record as listed in the office of the City Assessor, who are owners of property situated in whole or in part with a minimum of 200' of the boundaries of the proposed historic district. Such notice is to be sent at least 10 days prior to the date of the public hearing. Following the public hearing, the Landmarks Commission shall vote to recommend, reject or withhold action on the plan. This recommendation shall be forwarded to the City Plan Commission and the City Council.

- (b) City Plan Commission. The Plan Commission shall review the historic district plan and make a recommendation to the City Council. The Plan Commission shall make its recommendation on the historic district plan within 30 days.
- (c) City Council. The City Council, upon receipt of the recommendation from the Commission and Plan Commission, shall hold a public hearing, notice to be given as noted in par. (a) above, and shall, following the public hearing, either designate or reject the historic district. Designation of the historic district shall be in ordinance form prepared for that district and direct the implementation of such plan.

(6) BLUFF STREET HISTORIC DISTRICT (Cr. #2242)

- (a) It is hereby declared a matter of public policy that a specific area of the City be identified, designated and protected because of its special character and historical interest. This area to be called the Bluff Street Historic District shall be described in general by the map and the description on file in the City Clerk's office. The purpose and intent of this subsection shall be to designate this area according to the creation and review and adoption procedures of this Municipal Code.
- (b) The Bluff Street Historic District preservation plan, dated February 1990, on file in the City Clerk's office, is hereby approved and the Council directs this plan implemented.

(7) COLLEGE-PARK HISTORIC DISTRICT (Cr. #2243)

- (a) It is hereby declared a matter of public policy that a specific area of the City be identified, designated and protected because of its special character and historical interest. This area, to be called the College-Park Historic District, shall be described in general by the map and description on file in the City Clerk's office, except the properties known as the First Baptist Church and Baptist House at 617
- (b) Public and 516 College/ 620 Bushnell. The purpose and intent of this subsection shall be to designate this area according to the creation, review and adoption procedures in this Municipal Code.

- (c) The College-Park Historic District preservation plan, dated February 1990, on file in the City Clerk's office is hereby approved, except for the properties known as the First Baptist Church and Baptist House at 617 Public and 516 College/620 Bushnell and the City Council directs that this plan, as amended, be implemented.

(8) MERRILL STREET HISTORIC DISTRICT (Cr. #2386)

- (a) It is hereby declared a matter of public policy that a specific area of the City be identified, designated and protected because of its special character and historical interest. This area, to be called the Merrill Street Historic District, shall be described in general by the map and description on file in the City Clerk's office. The purpose and intent of this subsection shall be to designate this area according to the creation and review and adoption procedures of this Municipal Code.
- (b) The Merrill Street Historic District preservation plan, dated December 1992, on file in the City Clerk's office is hereby approved and the City Council directs that this plan be implemented.

32.13 REGULATION OF SIGNS

The Commission shall be responsible for the regulation of signs within any historic district. Prior to construction and/or placement, all signs proposed for the historic district shall first be granted a certificate of appropriateness to be issued by the Commission. Signs occurring in the historic district shall be subject to the provisions of Ch. 30 of this Code of Ordinances and shall conform to the specific regulations of the zoning district in which the historic district is located. Procedures for issuance of a certificate of appropriateness at §32.06(5) and (6) shall apply.

32.14 CONFORMANCE WITH REGULATIONS

- (1) Every person in charge of any landmark, landmark site or improvement in an historic district shall maintain it or cause or permit it to be maintained in a condition consistent with the provisions of this section.
- (2) The Building Inspector shall enforce this chapter. The duties of the Building Inspector shall include periodic inspection at intervals, provided by the City Council of designated landmarks, landmark sites and historic districts. These inspections may include physical entry upon the property and improvement with permission of the owner to insure that interior alterations or maintenance will not jeopardize the exterior appearance or structural stability of the improvement.

32.15 MAINTENANCE OF LANDMARKS, LANDMARK SITES AND HISTORIC DISTRICTS

- (1) Every person in charge of an improvement on a landmark site or in an historic district shall keep in good repair all of the exterior portions of such improvement and all interior portions thereof which, if not so maintained, may cause or tend to cause the exterior portions of such improvement to fall into a state of disrepair. This provision shall be in addition to all other provisions of law requiring such improvement to be kept in good repair.
- (2) Insofar as they are applicable to a landmark, landmark site or improvement in an historic district designated under this section, any provision of this chapter and Chs. 7, 8, 9, 26 and 30 of this Code of Ordinances may be varied or waived on application by the appropriate board having such jurisdiction over such chapter or, in the absence of such board, by the Building Inspector, provided such variance or waiver is in accordance with State Building Code requirements and does not endanger public health or safety.
- (3) Notwithstanding sub. (1) above, sandblasting of any exterior surface of an improvement on a landmark site or in an historic district is prohibited. Other types of abrasive exterior cleaning including, but not limited to, waterblasting with a sand additive, or corrosive cleaning including but not limited to, muriatic acid wash, are also prohibited unless specifically approved prior to work by the Commission. The Commission shall approve exterior surface cleaning projects using abrasive or corrosive cleaning methods only if the project will not adversely affect the exterior fabric of the building.
- (4) Whenever an application for rezoning, land division, zoning appeal or a conditional use affects a landmark, landmark site or historic district, 10-days notice of such meeting shall be submitted to the Commission for written and/or oral comment before the appropriate body. The Commission may authorize and file a protest petition. If a protest petition is filed by the Commission, a rezoning, land division, zoning appeal or conditional use shall not become effective, except by a favorable vote of $\frac{3}{4}$ of the members of the public body voting on the matter. (Am. #2410)

32.16 CONDITIONS DANGEROUS TO LIFE, HEALTH OR PROPERTY

Nothing contained in this chapter shall prohibit the making of emergency repairs to an historic building, in compliance with an order of any governmental agency or court of law to remedy conditions determined to be dangerous and a substantial threat to life, health or property. In addition, nothing contained in this chapter shall prohibit the demolition of an historic building which has been condemned in accordance with the provisions of §66.0413(3), Wis. Stats. In any such cases, no approval from the Commission shall be required. A building official shall send a copy of any emergency order or demolition permit affecting an historic building to the Landmarks Commission at the time that such order or permit is issued (Am. #3029).

32.17 EASEMENTS

The Commission may develop and recommend to the City Council a program and procedures for the establishment and acquisition of easement interests in historic property

by gift, purchase or condemnation. The Commission may assist the owner in preparation of an easement.

32.20 **PENALTIES** (Am. #2660)

- (1) Any person who demolishes, alters or constructs a building, structure or improvement in violation of this chapter or a certificate of appropriateness may be required to restore the building or improvement and its site to its appearance prior to the violation, subject to Commission review and approval. (Am. #2410)
- (2) Any person who violates any provisions of this chapter shall, upon conviction of the violation, be subject to a forfeiture for each separate violation. The forfeiture for the violation of a provision of this chapter shall be not less than \$50 nor more than \$500. The forfeiture for the second violation of the same provision of this chapter shall not be less than \$100 nor more than \$500. The forfeiture for the third or subsequent violation of the same provision of this chapter shall be not less than \$200 nor more than \$500. Each and every day during which a violation continues shall be deemed to be a separate offense.
- (3) The Building Inspector or the Commission may institute any appropriate action or proceeding in the name of the City to enjoin, correct or abate any violation of this chapter.

History of Historic Preservation Ordinance Changes

Ord. No.	Date Adopted	Reference to:
2165	1-16-1989	Charter Historic Preservation Ordinance
2242	5-21-1990	to designate the Bluff Street Historic District
2243	5-21-1990	to designate the College-Park Historic District
2362	8-17-1992	time limit on Certificate of Appropriateness
2386	12-21-1992	to designate the Merrill Street Historic District
2410	5-3-1993	various amendments
2441	8-16-1993	to create Section 32.095
2488	4-4-1994	amendments to Section 32.07
2611	10-2-1995	amendments to Section 32.06
2616	10-16-1995	to repeal and recreate Section 32.03
2660	4-15-1996	various amendments
2754	10-20-1997	amendments to Section 32.03
2862	1-4-2000	various amendments
3029	12-02-2002	various amendments